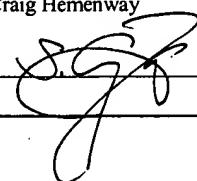


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keith Mario Torpy, et al.	)	
		)	
Serial No.:	09/787,496	)	Group Art Unit
		)	
Filed:	March 16, 2001	)	Examiner: Not Assigned
		)	
For:	THIN FILM HEATING ELEMENT	)	Attorney Docket 10032.00
		)	

RENEWED PETITION UNDER 37 CFR 1.47(a)

Box PCT Commissioner for Patents Washington, D.C. 20231	Express Mailing label number <u>EL 936643315 US</u>
	Date of Deposit: <u>28 August 2002</u>
	I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Washington, D.C. 20231
	Name: S. Craig Hemenway Signature: 

Sir:

This is a Renewed Petition Under 37 CFR 1.47(a) to allow this application to proceed in light of a named inventor's refusal to sign. A Response to Notification of Missing Requirements was filed in the instant case on 17 October 2001, alleging that one of the two named inventors could not be reached despite diligent efforts and had not signed a Declaration and Power of Attorney in this case. A true and correct copy of that Response to Notification of Missing Requirements, including all exhibits, is attached hereto as Exhibit A. The USPTO treated the Response as a *de facto* first Petition Under Rule 1.47 requesting that the application be accepted without the signature of joint inventor David M. Gehrig.

In a Decision on Petition, dated 28 February, 2002, Examiner Cole alleged, for multiple reasons, that the Petition failed to establish "factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort," as required by 37 CFR §1.47(a). A copy of the Decision accompanies this petition as Exhibit B. The Applicant respectfully requests reconsideration of the original Petition in light of the supplemental evidence filed herewith.

Applicants submit that the Petition should be granted for the following reasons:

1. On September 17, 1999, Patent Cooperation Treaty Application No. PCT/AU99/00791 (the "PCT Application") was filed, the subject of which was an invention entitled "Thin Film Heating Element" (the "Invention"). The PCT Application designated the United States.
2. On November 18, 1999, David M. Gehrig executed an Agreement whereby he acknowledged that he was a co-inventor of the Invention, the Invention was made in the course of his employment by Email Limited, and that Email Limited was the owner of the Invention. Paragraph C of the Agreement recited that the Invention was the subject of the PCT Application, and that the PCT Application was filed prior to the signing of the Agreement.

The Agreement also states:

"2. The Inventor will execute and do all such documents and things as may be necessary for legally vesting in Email or its assigns the full benefit of the Invention, including the right to apply for patent or other protection in respect of the Invention and to be constituted the lawful assignees of the Invention, in any part of the world."

A true and correct copy of this Agreement is attached hereto as Exhibit C.

3. On April 4, 2000, a Demand was filed with the International Preliminary Examining Authority electing the United States. The election was made prior to the expiration of the nineteen month window running from the priority date. Accordingly, the deadline for submission of a copy of the international application and payment of the national fee was duly extended to March 18, 2001.

4. On March 16, 2001, the Applicant filed a transmittal letter requesting entry into the national stage in the United States. The transmittal letter was accompanied by the national fee and an exact copy of the PCT Application. The resulting United States patent application (the "Application") was assigned Application Serial No. 09/787,496 and entitled "Thin Film Heating Element." The Application was filed in the name of two inventors: Keith Mario Torpy (of New South Wales, Australia) and David M. Gehrig (of New South Wales, Australia). The Application was filed with an unsigned Declaration. The Application is identical in all respects to the PCT Application.

5. On April 24, 2001, the U.S. Patent Office mailed a Notification of Missing Requirements under 35 U.S.C. 371, requesting that a Declaration and Power of Attorney signed by the inventors be filed.

6. On May 3, 2001, a copy of the application papers was mailed by Mr. Paul Le Vavasasseur to Mr. Gehrig. A true and correct copy of the cover letter accompanying the application papers is attached hereto as Exhibit D.

7. Multiple telephone messages went unreturned during the months of May and June, 2001, as set forth in the Statement Of Facts In Support Of Filing On Behalf Of Inventor Refusing To Sign, attached hereto as Exhibit E. Exhibit E further has two sub-exhibits, namely Exhibits 1 and 2.

8. Efforts to contact Mr. Gehrig to obtain his signature on the application papers were unsuccessful through June 18, 2001, as evidenced by the letter of the same date from Electrolux Home Products Pty Ltd. A true and correct copy of this letter is attached hereto as Exhibit F.

9. Due to Mr. Gehrig's refusal to sign, the Assignee was forced to obtain and submit a Declaration executed by only one of the named inventors, namely Keith Mario Torpy. The Declaration was filed as part of the Response to Notice to File Missing Requirements on October 17, 2001. As detailed below, Mr. Gehrig has personally refused to sign the Declaration and Power of Attorney documents.

10. On February 28, 2002, the United States Patent and Trademark Office issued its Decision on Applicants' Response to Notification of Missing Requirements. This Decision

rejected the Applicant's *de facto* Petition, filed as part of the Applicants' Response to Notification of Missing Requirements.


11. Since receipt of the Decision, the Assignee has diligently attempted to obtain Mr. Gehrig's signature on the application papers.

12. Finally, during a face-to-face meeting with Mr. Le Vavasseeur on August 12, 2002, Mr. Gehrig refused to sign the Declaration and Power of Attorney for the Application. Although Mr. Le Vavassuere tendered such documents to Mr. Gehrig and reminded him of his duty to sign under the previously executed Agreement referenced above, Mr. Gehrig stated that he was not prepared to sign. See Exhibit E, wherein Mr. Le Vavasseeur attests to this meeting.

In light of the circumstances indicated above (including the fact that the two missing inventors executed declarations in the PCT Application), the undersigned respectfully requests that the application be afforded a filing date and be examined.

Respectfully submitted this 28<sup>th</sup> day of August, 2002.

DORSEY & WHITNEY LLP

  
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S. Craig Hemenway, Reg. No. 44,759  
USPTO Customer No. 20686

Attorneys for Applicant